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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,658	01/24/2002	Hiromi Nambu	218360US0	9726

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,658

Applicant(s)

NAMBU ET AL.

Examiner

Blessing M. Fubara

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-22 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Examiner acknowledges receipt of amendment A filed 09/15/03. Claims 1 and 3-22 are pending.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The rejection of claims 1, 3 and 6-8 under 35 U.S.C. 102(b) as being anticipated by Guillaume et al. (WO 98/44898) is withdrawn in light of the amendment to claim 1. Therefore, argument relating to the 35 U.S.C. 102(b) anticipation by Guillaume is moot.
3. Claims 1, 3-8, 10, 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (JP 61221112).

Yamamoto discloses a water soluble gel composition that comprises 2-50 weight% water-soluble high polymer, 1-12 weight% thioglycolic acid or its salt or barium sulfide, water, alkaline agent, filler, flavors and hair-swelling promoter (English abstract). In paragraph 3 of column 1, page 2, Yamamoto uses calcium hydroxide and sodium thioglycolate. The property of a composition cannot be separated from the composition and claim 8 recites the property of the composition. The teaching of Yamamoto meets the limitations of the claims.

4. Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Saettone et al. (FR 2 038 196).

Saettone discloses a depilatory composition comprising thioglycolic acid or salt thereof, Carbopol, basic substance comprising at least one substance that belongs to the group of alkaline hydroxide and alkaline earth hydroxides, coloring substance, preservative and accelerating

Art Unit: 1615

substance (pages 1-3 of translation). The alkaline or alkaline earth hydroxides are not disclosed as cross-linking agents, but a cross-linking activity cannot be excluded since they are included in the composition and since the cross linking agents recited in instant claim 17 includes alkaline earth hydroxides. Saettone meets the limitations of the claims.

5. Claims 1, 3-8 and 10-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hori et al. (US 4,830,633).

Hori discloses a depilation method and the method comprises coating an aqueous solution or polymer emulsion containing depilatory medicine or agent on hair for hair removal without the painful or unpleasant odor effect (abstract). The depilatory composition comprises film forming polymer, depilatory medicine and additives such as alkali agent, hair swelling accelerating agent, a filler, perfume and coloring agent (column 2, lines 3-10). The film forming polymer is selected from the group of polyvinylpyrrolidone, polyacrylamide, polyacrylic acid and salts thereof, polyvinyl alcohol, carboxymethyl cellulose, methyl cellulose, hydroxyethyl cellulose, hydroxypropyl cellulose, gelatin, alginic acid, alginic acid salts, polyethylene glycol, gum arabic, acrylic esters and polyvinyl methyl ether in an amount of 1-70 wt%; 3-20 wt% depilatory medicine selected from the group of thioglycolic acid or its salts; water; 0.1-5 wt% alkali agents selected from the group of ammonium salt, metal salt of organic dicarboxylic acid, potassium hydroxide, calcium hydroxide and sodium hydroxide; urea as hair swelling accelerating agent; glycerin; dioctyl phthalate plasticizer; an silicon dioxide or calcium carbonate or clay or kaolin or aluminum hydroxide (column 2, line 11 to column 3 line 55 and examples 1, 2 and 7 and claims 1, 3, 5, 6, and 8-10). The composition has a viscosity of from 0.1 to 1,000 poise at 30 °C (column 2, line 53). The composition is applied to underarm and allowed to stand

Art Unit: 1615

for 15 minutes (example 7) and 10 minutes (example 9) and 8 minutes (example 10). Since Hori teaches the same amount of cross-linking agent (calcium hydroxide) and same amounts of hydrophilic polymer as in the instant claim, it is inherent that the depilatory composition of the prior art, Hori would have the same equivalents of cross-linking agent to ionic group of the hydrophilic polymer as recited in instant claim 19. The process of instant claim 20 applies the composition to an area that requires depilation and the process disclosed in Hori meets that limitation. Thus the teaching of Hori meets the limitations of the claims.

Claim Rejections - 35 USC § 103

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hori et al. (US 4,830,633).

Hori teaches the composition and process of application of the composition to an area of the body that needs depilation except that Hori does not teach applying the composition to the face. However, hair is known to grow on faces. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare and use the depilatory composition according to the teaching of Hori. One having ordinary skill in the art would have been motivated to apply the composition to the face with the expectation that facial hair would be removed when the composition is peeled off.

7. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art does not teach a depilatory composition that is contained on a support or in a support or both in and on the support.

Art Unit: 1615


8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is 703-308-8374. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

 Blessing Fubara
Patent Examiner
Tech. Center 1600

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600